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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 DEBORAH CAHILL, M.D.,

11 Plaintiff,

12 vs.

13 FRANCISCAN HEALTH SYSTEM, a
Washington non-profit corporation,

14 Defendant.

No.

**DEFENDANT'S NOTICE OF
REMOVAL**

15
16 **NOTICE OF REMOVAL**

17 Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, defendant Franciscan Health System
18 ("defendant"), hereby removes this action from the Superior Court, County of Pierce, where it
19 is currently pending, to the United States District Court for the Western District of
20 Washington at Tacoma. As addressed below, federal question jurisdiction exists in this
21 action. See 28 U.S.C. § 1331. In support of this removal, defendant states as follows.

22 **INTRODUCTION**

23 1. Plaintiff commenced this action on or about July 25, 2012, by filing a
24 complaint against defendant in the Superior Court, County of Pierce, bearing cause No. 12-2-
25 11266-1. On August 23, 2012, defendant was served with the complaint. Copies of all
26 pleadings, processes and orders in the state court are attached hereto as **Exhibit A**.

1 2. In her complaint, plaintiff alleges that defendant denied her application for
2 medical staff privileges based on a disability, an asserted violation of the federal
3 Rehabilitation Act, 29 U.S.C. § 794(a); Title III of the Federal Americans with Disability Act
4 (ADA), 42 U.S.C. § 12181, *et seq.*; the Washington Law Against Discrimination (WLAD);
5 RCW 49.60 *et seq.*; and Washington's Consumer Protection Act (CPA), RCW 19.86 *et seq.*
6 Plaintiff also asserts that the alleged denial of her application constitutes the tort of
7 interference with business expectancy.

8 3. As set forth below, this case is properly removed to this Court pursuant to 28
9 U.S.C. § 1441(a) because this Court has original jurisdiction over this action pursuant to
10 § 1331, and because defendant has satisfied the procedural requirements for removal.

11 **GROUNDS FOR REMOVAL**

12 **A. This Court has Jurisdiction over each of the Claims in this Case Pursuant to** 13 **Federal Question and Supplemental Jurisdiction.**

14 4. Pursuant to federal question jurisdiction, "The district courts shall have
15 original jurisdiction of all civil actions arising under the Constitution, laws or treaties of the
16 United States." 28 U.S.C. § 1331. In addition, pursuant to supplemental jurisdiction:

17 [I]n any civil action of which the district courts have original jurisdiction, the district
18 courts shall have subject matter jurisdiction over all other claims that are so related to
19 claims in the action within such original jurisdiction that they form part of the same
20 case or controversy under Article III of the United States Constitution.

21 28 U.S.C. § 1367(a).

22 5. Federal question jurisdiction has been clearly invoked in this case. In her
23 complaint, plaintiff alleges disability discrimination pursuant to two federal anti-
24 discrimination statutes: the Federal Rehabilitation Act, 29 U.S.C. § 794(a); and the ADA, 42
25 U.S.C. § 12181, *et seq.* Plaintiff's claims under these statutes give rise to the original
26 jurisdiction of this Court. 28 U.S.C. § 1331.

 6. In addition, this Court has supplemental jurisdiction over plaintiff's remaining
state law claims. Each of these claims - under the WLAD and Washington's CPA, and for

1 tortious interference with business expectancy - arise out of the same factual allegations that
2 give rise to plaintiff's asserted federal claims. As such, the state law claims are a part of the
3 same case or controversy as are the federal claims, and this Court has supplemental
4 jurisdiction over each of them. *See* 28 U.S.C. § 1367(a); *Wisconsin Dept. of Corrections v.*
5 *Schacht*, 524 U.S. 381, 387, 118 S. Ct. 2047 (1998) (Holding that, in cases involving both
6 federal and state law claims, state law claims fall within the supplemental jurisdiction of the
7 federal courts).

8 7. Because this Court has original jurisdiction of this action, removal is proper
9 under 28 U.S. § 1441(a) (Stating that "any civil action brought in State court of which the
10 district courts of the United States have original jurisdiction, may be removed by the
11 defendant or the defendants, to the district court...").

12 **B. The Other Prerequisites for Removal have been satisfied.**

13 8. In addition to satisfying the requirements of federal question jurisdiction,
14 defendant has satisfied all procedural requirements for removal.

15 9. Removal is timely because less than 30 days have passed since service of the
16 Summons and Complaint on Defendant on August 23, 2012. (*See* Return of Service, included
17 in **Exhibit A**); 28 U.S.C. § 1446(b).¹

18 11. Venue for removal is proper in this district and division pursuant to 28 U.S.C.
19 § 128(b) and 28 § 1441(a) because this district and division embrace the Superior Court of
20 Washington, County of Pierce, the forum in which the removed action is currently pending.

21 12. In accordance with 28 U.S.C. § 1446(d), defendant will promptly provide
22 notice of the filing of this Notice of Removal to the plaintiff and shall file a copy of this
23 Notice along with a Notice of Filing of Notice of Removal with the Clerk of the Superior
24

25 ¹ In accordance with 28 U.S.C. § 1446(a), a copy of all process, pleadings and orders in the state court action is
26 attached hereto collectively as **Exhibit A**.

1 Court of Washington, County of Pierce, where this action is currently pending (attached
2 hereto as **Exhibit B**).

3 WHEREFORE, defendant gives notice that the matter bearing Civil No. 12-2-11266-1
4 in the Superior Court of Washington, County of Pierce, is removed to the United States
5 District Court for the Western District of Washington at Tacoma, and requests that this Court
6 retain jurisdiction for all further proceedings in this matter.

7 DATED this 14 day of September, 2012.

8
9 BENNETT BIGELOW & LEEDOM, P.S.

10
11 By 

12 Bruce Megard, WSBA #27560
13 Michael Madden, WSBA #8747
14 Attorneys for Defendant
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CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury under the laws of the State of Washington, that she is now, and at all times material hereto, a citizen of the United States, a resident of the State of Washington, over the age of 18 years, not a party to, nor interested in the above entitled action, and competent to be a witness herein.

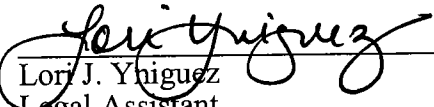
I caused to be served this date the foregoing in the manner indicated to the parties listed below:

Kenneth S. Kagan, WSBA #12983
Elizabeth K. Maurer, WSBA #21973
Carney Badley Spellman
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010

<input checked="" type="checkbox"/>	Legal Messenger
<input type="checkbox"/>	Facsimile
<input type="checkbox"/>	Email
<input type="checkbox"/>	1 st Class Mail
<input type="checkbox"/>	Federal Express

Attorneys for Plaintiff

Dated in Seattle, Washington this 14th day of September, 2012.



Lori J. Yniguez
Legal Assistant

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